

Notice of Allowability

Application No.

09/482,682

Examiner

Bo Peng

Applicant(s)

VON SEGGERN ET AL.

Art Unit

1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/18/06.
2. ☒ The allowed claim(s) is/are 5-8, 10, 11, 14-18, 20-23, 69, 95, 97 and 104-107.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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1. Applicant's amendment, filed on December 18, 2006, is acknowledged. Claims 1-4, 9, 12, 13, 19, 24-40, 42-46, 48-68, 70-94, 96 and 100-103 are cancelled. Claims 11, 14 and 69 are amended. Claims 5-8, 10, 11, 14-18, 20-23, 41, 47, 69, 95 and 97-99 are pending.
2. The rejection of Claims 1, 100 and 101 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, is moot in view of the cancellation of the claims.
3. The rejection of Claim 69 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, is withdrawn in view of the amendment to the claim.
4. The rejection of Claims 4, 6-8, 11, 14-17, 20-23 and 69 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement is withdrawn in view of the amendment and Applicant's argument.
5. The rejection of Claims 4, 6-8 and 11 under 35 U.S.C. 112, first paragraph for failing to comply with the enablement requirement is withdrawn in view of the amendment and Applicant's argument.

EXAMINER'S AMENDMENT

6. An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR

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1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

7. Authorization for this Examiner's Amendment was given in a telephone interview with Linda Judge on January 26, 2007.

8. Amend Claim 69 as follows:

Claim 69. An adenovirus packaging cell line wherein said cell line comprises a stably integrated nucleic acid molecule, comprising an adenovirus tripartite leader (TPL) nucleotide sequence, said TPL sequence comprising complete TPL exon 1 having the nucleotide sequence of SEQ ID NO: 32 or partial TPL exon 1 having the nucleotide of SEQ ID NO: 26; and is selected from the group consisting of 293, A549, W163, HeLa, Vero, 211, 211A and an epithelial cell line; ~~and said cell line comprises a stably integrated nucleic acid molecule, according to Claim 14.~~

9. Cancel Claims 41, 47, 98 and 99.

10. Add new Claims 104-107:

Claim 104. The method of Claim 95, wherein said adenovirus particle comprises a genome encoding an exogenous protein.

Claim 105. The method of Claim 95, wherein said exogenous protein is selected from a group consisting of a tumor-suppressor protein, a biologically active fragment thereof that has tumor-suppressor activity, a suicide protein and a biologically active fragment thereof that has activity as a suicide protein.

Claim 106. The method of Claim 95, wherein said nucleotide sequence that encodes an adenovirus structural protein is operatively linked to an inducible promoter.

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Claim 107. The method of Claim 95, wherein the adenovirus structural protein is adenovirus fiber protein.


11. Accordingly, Claims 5-8, 10, 11, 14-18, 20-23, 69, 95, 97 and 104-107 are pending and are allowed.


12. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bo Peng, Ph.D. whose telephone number is 571-272-5542. The examiner can normally be reached on M-F, 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell, Ph.D. can be reached on 571-272-0974. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Bo Peng, Ph.D.
January 29, 2007


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